

Ruppert



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Charta, Inc.
File: B-224287
Date: September 22, 1986

DIGEST

Protest against alleged solicitation defects is untimely unless it is filed with either the procuring agency or the General Accounting Office (GAO) before bid opening. In the absence of evidence of a timely agency-level protest, GAO will therefore dismiss a protest against alleged solicitation defects that is filed with it after opening.

DECISION

Charta, Inc. protests the proposed award of a contract for military family housing maintenance services at Keesler Air Force Base under invitation for bids (IFB) No. F22600-86-B-0049. Charta, the incumbent contractor, contends that the solicitation was written in a manner which was misleading to all other bidders because it either was silent about or failed adequately to discuss certain required work.

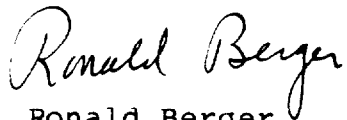
Specifically, Charta alleges, the solicitation was deficient with regard to the extent of work required for change of occupancy maintenance, exterior facility maintenance, roofing repairs, termite damage repairs, and additional repairs required after natural disasters, i.e., freezes and hurricanes. Charta, which bid \$75,000 a month for the lump sum portion of the contract, alleges that neither the low bidder, at \$47,000, nor any of seven other bidders whose prices were less than its own can perform at their offered prices. Charta seeks cancellation and resolicitation with a more explicit statement of work.

We find the protest untimely.

This protest concerns alleged deficiencies that were apparent on the face of the solicitation. As such, it should have been filed either with the procuring agency or our Office before the August 21, 1986, bid opening. 4 C.F.R. § 21.2(a)(1) (1986). Charta did not protest to our Office until September 4.

In its protest, Charta refers to an August 7 letter that it wrote to the contracting officer concerning the workload history included in the IFB for change of occupancy maintenance. Charta stated that in its opinion the workload history was incorrect, leading to other bidders' misunderstanding of the requirements. This letter appears to have been merely a request for clarification, to which the contracting officer responded on August 8, rather than a timely agency-level protest. In the absence of a showing that there has been a prior timely agency-level protest, we will not consider Charta's protest filed here after opening. See Marco Crane & Rigging Co.--Request for Reconsideration, B-220618.2, Nov. 27, 1985, 85-2 C.P.D. ¶ 612.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel